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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/615,140

07/09/2003

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8091

7590 06/20/2007
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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT

PAPER NUMBER

3781

MAIL DATE

DELIVERY MODE

06/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/615,140

Applicant(s)

DUPRAS ET AL.

Examiner

/Stephen J. Castellano/

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 7-16 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 17-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

Applicant's election without traverse of Group 5 (Fig. 5-8), claims 1-6 and 17-19 in the reply filed on June 13, 2006 is acknowledged.

It is noted that the inverted J-shaped hook vent stated in claim 3 has not been shown in the elected embodiment. It is the examiner's opinion that claim 3 doesn't correspond to the elected specie.

Claims 7-16 and 20 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected specie, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on June 13, 2006.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Dennett et al. (Dennett).

Dennett discloses a storage structure for use as a container for storing liquid and as a supporting structure for supporting an entity on it's top wall, the storage structure has two main parts forming the enclosure, a top part forming a top wall and a bottom part forming a base wall and a peripheral wall in the form of a cylindrical wall, the air tight joint between the top and bottom parts is deemed to provide a liquid tight platform enclosure (see col. 2, lines 9-14), the inlet is defined by a stem 23 which is closed by hood 95 with nut 97 (obstructing means), the outlet is defined by stem 11 which is closed by hood 96 with nut 98 (obstructing means), 45-47 define partitions.

Re claim 6, the cover 3 seems to be made of a metal and is sufficiently strong to contain a vacuum and is deemed strong enough to allow an intended user to stand thereon.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garton in view of Dennett.

Garton discloses a storage structure for use as a container for storing liquid and as a supporting structure for supporting an entity on its top wall, the storage structure has two main parts forming the enclosure, a top part forming a top wall (roof 30) and a bottom part forming a base wall as shown in Fig. 5 and 7 and a peripheral wall in the form of a cylindrical wall (the cylindrical wall of inner tank 12 and the corresponding sidewall of outer vessel 14), the inner tank 12 is joined integrally to the roof and base as shown in Fig. 5 to form a liquid tight platform enclosure, inlet 48, vent 46, fluid level detector 42 and discharge tube 140 control to ingress and egress of fluid contents. Garton discloses the invention except for the obstructing means. Dennett teaches obstructing means as previously discussed in the 102 rejection of Dennett. It would have been obvious to add the obstructing means to maintain the fluid content within the storage structure and control the filling and discharge of the contents.

Re claim 4, the means for providing information on the quantity of liquid stored is not deemed to limit the structure to gauges only, other device that are used to detect liquid level meet this limitation. However, Official notice is taken that liquid level gauges are well known. It

would have been obvious to use a level gauge to quickly and accurately decipher the amount of fluid contained.

Re claim 6, Official notice is taken that the making of a top wall or roof strong enough for an intended user to stand upon is well known in the art. It would have been obvious to make the top wall sturdy enough as a matter of design choice in allowing a user to perform maintenance at the top wall or roof area without requiring additional support which requires additional equipment and restricts the user's movement.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Garton in view of Dennett as applied to claim 1 above, and further in view of Coombs.

The Garton-Dennett combination discloses the invention except for the separating aperture arrangement. Coombs teaches the separating aperture arrangement having valves 39-41 for discharge lines 34, 36 and 38, with valves 46, 48 and 50 allowing for the discharge of oil and water (oil and water are liquids of different density) through separate apertures. It would have been obvious to add the oil-water separating capability to the combination tank in order to segregate and purify the two liquids.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Garton in view of Dennett as applied to claim 1 above, and further in view of Keiser.

The Garton-Dennett combination discloses the invention except for the handrail attachment means. Keiser teaches bars 136 capable of attaching a handrail. It would have been obvious to add the handrail attachment means to provide easier handling of the bulky tank.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Garton in view of Dennett as applied to claim 1 above, and further in view of Lindsey et al. (Lindsey).

The Garton-Dennett combination discloses the invention except for the peripheral frame. Lindsey teaches a peripheral frame at a top upper edge of a swimming pool having channel members (short upper side rails 103 and long upper side rails 107) assembled in end-to-end relationship. It would have been obvious to add the peripheral frame to the combination to provide additional support to prevent the upper edge from collapsing.

Applicant's arguments filed June 5, 2007 have been fully considered but they are not persuasive. In the first sentence of the second paragraph of applicant's remarks, he concedes that "most types of storage tanks are sturdy enough to support an entity." This is the exact limitation that is recited in claim 1, "for supporting an entity." Claim 6 states that the top wall is configured and sized for allowing an intended user to stand thereon. Dennett et al. discloses a metal storage apparatus with a cover made of two metal layers (see Fig. 2), the apparatus is used for cooking under a pressure of saturated steam (see page 1, col. 1, lines 29-30) and the capacity to weight ratio shall be as large as possible for a given floor space (see page 1, col. 1, lines 34-36). Dennett's double walled metal structure is deemed sturdy enough to support the weight of a user standing thereon. Applicant mentions that Dennett doesn't work as a balcony because of its domed top. Claims 1-6 and 17-19 do not state "balcony" or any equivalent. Furthermore, applicant remains silent about the flat top wall of Garton that may provide a sufficient balcony structure because it is not domed or curved.

Applicant's argument that Garton doesn't have enough structural integrity doesn't account for the claims that need only to be strong enough to support an entity. Garton discloses enough structure to support various pipes and fittings on the top wall. In addition, tie down flange pairs 80 are used along the perimeter of the top wall to secure the entire container (e.g. to

the deck of a ship) which would disclose a significant structural strength for the top wall and certainly enough strength to support the weight of a user standing on the top wall as stated in claim 6.

Applicant requests constructive assistance. Unfortunately, the claims and disclosure do not provide sufficient distinguishing subject matter to write a claim which would be patentable.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

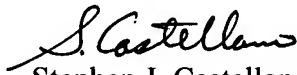
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on increased flexibility plan (IFP).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony D. Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3781

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Stephen J. Castellano
Primary Examiner
Art Unit 3781

sjc